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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,447	03/12/2004	Darin Barri	MAT 313	2005
23581 7590 09/19/2008 KOLISCH HARTWELL, P.C. 200 PACIFIC BUILDING 520 SW YAMHILL STREET PORTLAND, OR 97204				
EXAMINER				
CHEUNG, VICTOR				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
09/19/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/801,447

**Applicant(s)**

BARRI, DARIN

**Examiner**

VICTOR CHEUNG

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 27-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 27-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is in response to the reply filed 6/17/2008.

Claims 1, 3, and 27-39 are pending.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 27-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinzer et al. (US Patent No. 7,223,170).

See the Response to Arguments section for further explanations.

Re Claim 1: Kinzer et al. disclose an interactive DVD gaming system comprising a DVD for use with a standard DVD player generally having sixteen general parameter registers (Col. 6, Lines 6-62), a controller for use with the DVD player (Fig. 1, Ref. No. 108), the DVD player being configured to accept game input from the controller (Col. 7, Lines 27-34) and to hold one or more game variables, each game variable having a value (Col. 8, Lines 25-32), wherein the controller includes a communication subsystem configured to provide user-provided game input to the DVD player through first and second user-operated control buttons causing the communication subsystem to provide first and second distinct game inputs, the DVD including data including at

least one sequence of audiovisual content and one or more game scripts operable to define a game variable, associate a value with a game a defined game variable, change a value of the game variable as a function of both the accepted game input from the controller and the value of the game variable, and control game flow based on the value of one or more game variables (Col. 7, Lines 27-34; Col. 15, Lines 32-53; Col. 21, Lines 29-52). Generally, Kinzer et al. disclose a game using a standard DVD player including a plurality of clips (audio, video, text, etc.), wherein a user controlled remote control with a plurality of buttons is used to effect gameplay elements including navigating through menus, navigating through clip playback, and initializing the clip tables that control the game flow of overall clip playback. Navigation and game flow is accomplished by defining the current state of the game and using the input to decide the next step.

Regarding the limitation of the DVD player having a maximum of 1 kilobyte of onboard memory, while Kinzer et al. disclose that the invention is limited to using a conventional DVD player having the memory constraints present in conventional DVD players, they do not specifically disclose the size of the general parameter register memories (Col. 6, Lines 47-62). However, as evidenced by the Applicant's specification, conventional DVD players generally have eight, sixteen, or twenty-four registers, equating to less than one kilobyte of memory (Specification Page 8). Therefore, as evidenced by the Applicant's specification, Kinzer et al. disclose a maximum of 1 kilobyte of onboard memory which can be founding conventional DVD players.

Re Claim 3: Kinzer et al. disclose the DVD is formatted according to the DVD-Video Standard (Col. 6, Lines 6-15).

Re Claims 27-28, 30-31, 39: Kinzer et al. disclose game scripts operable to associate a first value with a defined game variable, and change the first value to either a second value upon accepting the first game input from the controller or a third value upon accepting the second game input from the controller. Kinzer et al. disclose a method of selecting and displaying clips (audio, video, text, etc.), the method including accepting inputs that change values of game variables including values of the clip table, that guide the flow of the game. Such values include clip locations and next-clip locations such that the user can initialize and navigate through the desired clips as part of the game flow through game inputs. (Col. 7, Lines 27-34; Col. 15, Lines 32-53; Col. 18, Line 42-Col. 19, Line 31; Col. 21, Lines 29-52).

Re Claim 29: Kinzer et al. disclose the use of a wireless remote control (Fig. 1, Ref. No. 108) to communicate with the DVD player.

However, Kinzer et al. do not specifically disclose the remote control including a light emitting diode configured to transmit wireless signals.

Examiner takes OFFICIAL NOTICE that the use of light emitting diodes, often in the form of infrared light emitting diodes, in remote controls is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an efficient wireless input method to the DVD player.

Re Claim 32: Kinzer et al. disclose the one or more game scripts operable to distinguish between first and second game inputs (Col. 7, Lines 29-34). Note that nearly all communications systems must be operable to distinguish between inputs if a plurality of different inputs are present.

Re Claims 33-35, 37: As discussed above in regards to claim 1, Applicant has disclosed that conventional DVD players, which are used by Kinzer et al., include limitations such as having no more than eight, sixteen, or twenty-four general and system parameter register memories, wherein a sixteen general parameter register memory includes eighty bytes of memory (Specification Page 8).

Furthermore, with regard to having the specific quantities of 8, 16, and 24 general and system parameter register memories, Applicant has not disclosed that having these specific numbers of register memories solves a stated problem or is for any particular purpose. Moreover, the invention of Kinzer et al. would perform equally well under any number of register memories (Col. 6, Lines 38-42). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include 8, 16, or 24 memories, as the choice would have been a design choice which fails to patentably distinguish over the prior art.

Re Claim 36: Kinzer et al. disclose the register memories as discussed in claim 1 above. Inherent of such memories, the register memories include segments of bits and bytes.

Regarding the limitation “to hold more than one variable,” the language used to describe the invention is an intended use of the invention. The Applicant’s method of using the plurality of segments found in the register memories to hold more than one variable does not result in a structural difference between the claimed invention and the prior art that would render it patentably distinguishable.

Re Claim 38: Kinzer et al. disclose an initialization game script operable to format the memory storage means of the DVD player to designate memory to hold values for each variable defined and to associate an initial value to each variable defined (Col. 18, Lines 42-63).

***Response to Arguments***

4. Applicant's arguments filed 06/17/2008 have been fully considered but they are not persuasive.

Applicant argues, on pages 8-10 (regarding claim 1), that Kinzer does not disclose changing the value of a game variable to a value that is determined as a function of both game input accepted from a computer and the value of the game variable. The Applicant argues that because the order of the clips are predetermined by way of the initialized jump values, Kinzer does not disclose the changing the value and controlling game flow as in the amended claim 1. Examiner disagrees. In Kinzer, there are at least two game values: the current clip value and the jump value. A user of the system may prompt the system to process the next clip, and in doing so, both the clip value and the jump value will change to the next subsequent values, either through adding a jump value or pulling the next value from a table. However, the values are still determined as a "function" of both the controller input and the current value. The current value is part of the "function" as a starting or reference value to determine the next value. The controller input is part of the "function" because the operation of advancing to the next clip is accomplished only with the specific input of the controller; a different input from the controller would not produce the same result as the "next clip" input. Thus, because determining the next current value and the next jump value is dependent on both the current values and the controller input as provided by the user of the system, Kinzer discloses changing game values determined as a function of both the game input accepted from a

controller and the value of the game variable. By changing the state of the game, the flow of the game is changed.

Applicant's arguments, on pages 12-13, with regard to claims 27 and 31 are moot in light of the Examiner's response to the argument regarding claim 1.

Applicant argues, on pages 11-13, that Kinzer does not disclose the DVD player of claims 1, 33, and 37, specifically the memory requirements. Kinzer does not specifically disclose that the DVD player used in the invention of Kinzer has 16 GPRMs. Kinzer only discloses that the DVD player is designed to operate only with the capabilities available to a DVD player. Kinzer goes on to describe that a common current constraint is 16 registers (Col. 6, Line 47-55; Col. 21, Lines 10-13; Col. 20, Lines 21-28). The method of Kinzer is designed to operate with whatever capabilities are provided by the DVD player on which it is implemented. As discussed in the previous Office Action, a conventional DVD player generally includes less than 1 kilobyte of onboard memory. Kinzer discloses a method for use within the constraints of a DVD player, DVD-ROM, or any other DVD playing device (Col. 6, Lines 38-42); Applicant discloses that a conventional DVD player, even one with 16 registers, generally includes less than 1 kilobyte of memory. As a conventional DVD player is a DVD player device and is thus disclosed by Kinzer, Kinzer discloses a DVD player with less than 1 kilobyte of memory. Additionally, as discussed above, Kinzer does not disclose that the DVD player must include 16 registers; it is only disclosed that 16 registers is one common constraint limit of DVD players. Kinzer discloses a method for use within the constraints of a DVD player, DVD-ROM, or any other DVD playing device. Kinzer goes on to disclose only using 4 registers, and that any combination of registers may be used (Col. 18, Lines 60-63).



Applicant argues, on page 13, with regard to claim 32, that Kinzer does not disclose one or more game scripts operable to distinguish between first and second game inputs provided by the communication system. As the Examiner understands, the Applicant is stating that in Kinzer, “the DVD player is responsive to different inputs from the remote control,” but in the Applicant’s invention, the game scripts on the DVD distinguish the inputs. It would then be unclear how the game scripts, which being on a DVD are software programs, are able to distinguish between inputs. The software and the DVD disc themselves are not capable of performing anything, as the software would only be functionally descriptive material that is stored on the DVD disc and must be loaded onto the DVD player, where the DVD player is the object that performs the processing. Nevertheless, Examiner stands by the rejection that Kinzer discloses the subject matter. In the previously cited section (Col. 7, Lines 29-34), Kinzer discloses that game inputs including arrow controls and an enter/play button to navigate and select displayed menu items. Also disclosed are skip and fast forward buttons to navigate through clips. In these instances, the game’s menu and the game’s clips are part of the DVD game, and it is the game that must be operable to use the inputted controls and distinguish between an inputted “up arrow” and an inputted “down arrow,” for example. Additionally, because the DVD player is a conventional DVD player, it does not include the DVD game, and thus the DVD game makes the distinction between game inputs.

Applicant argues, on pages 13-14, that segmentation with regard to claim 36 is a formatting technique that is not disclosed by Kinzer. Claim 36 only includes that the parameter is segmented, not that a segmentation memory formatting technique used. The only reference to segments or segmentation that the Examiner can find is on page 9 of the Specification, which, presumably in

Figure 3, shows segmentation of the register. However, as the Examiner asserts, “bytes” are inherently segmented as 8 separate bits. A single 16 bit registers are often segmented as 2 adjacent bytes, or 16 adjacent bits. The registers are inherently made of segments. The fact that claim 36 is using the segments to hold more than one variable is an intended use of the segments, and as any memory register is able to be used however a programmer intends for the register to be used, Kinzer can inherently perform the task of storing more than one variable in a register memory. In support of this assertion, Examiner has included documentation in the form of “Visual Basic .NET 2003 Language Changes” (see “Bit Shift Operators”) and “Memory and memory organization” (see pages 2-3, the use of high-byte and low-byte memory addresses).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR CHEUNG whose telephone number is (571)270-1349. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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